

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF SOUTH CAROLINA  
WESTERN DIVISION

MAURICE PICKENS,  
Petitioner/Movant,

Vs.

CASE NO.: 5:10-HC-2036-FL

UNITED STATES OF AMERICA,  
Respondent,

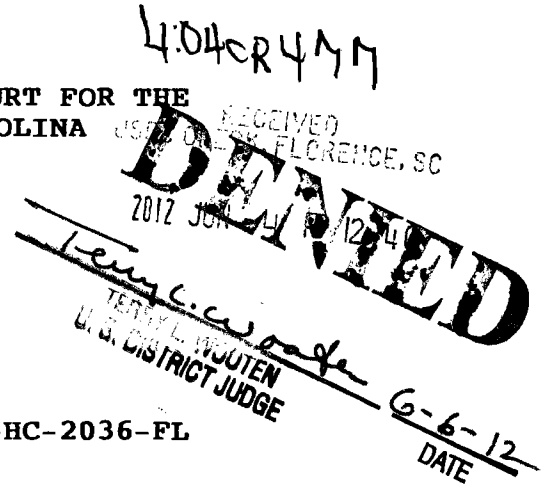
MOTION FOR JUDICIAL NOTICE AND CONSIDERATION  
OF AMENDED MOTION PURSUANT TO RULE 15 OF THE FEDERAL  
RULES OF CIVIL PROCEDURES

COMES NOW, the Petitioner, Maurice Pickens, and acting Pro-se  
motions this Honorable Court for an Amendment to his Rule 60 (b)  
(6) motion filed in this matter. He states the following Support.

BACKGROUND

On the 8th of May, 2012, Petitioner filed a motion for relief  
of Judgment pursuant to Rule 60 (b) (6) of the Federal Rules of  
Civil Procedures. In said pleading, Petitioner is seek relief  
from the operations of the Honorable Court's judgment on his Post  
Conviction Motion filed pursuant to Title 28 U.S.C. § 2255. In  
that the Honorable Court did not give claim 5 of his § 2255  
the proper review and consideration.

The Petitioner now seeks to amend that claim, in his Rule  
60 (b) (6), by asserting to this Honorable Court that the holding  
in *United States v. Simmons*, 635 F.3d 140 (4th Cir. 2011) has  
been given Equitable Tolling applications, see *Holland v. Florida*,  
130 S. Ct. 2549, 2562, 177 L. Ed. 2d 130 (2010), and *United States*  
*v. Sosa*, 364 F.3d 507, 512 (4th Cir. 2004).



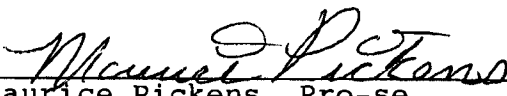
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U.S. DISTRICT COURT  
FLORENCE, SC

**Simmons, Supra**, is directly on point with the Petitioner's claim on Issue Five of his Section 2255 motion. Petitioner asserts that his prior conviction for possession is not a qualifying prior for 851 enhancement, cause he did not service more than a year in prison for said prior. The **Simmons, Supra**, opinion is directly on point with the Petitioner's contention, and therefore should be given Equitable Tolling application in this Honorable Court's consideration of Petitioner's Rule 60 (b) (6) motion. The claim relates back to the original pleading and **Simmons, Supra**, has been given Equitable Tolling application, see **Mahorn v. United States**, 2012 U.S. Dist. Lexis 52230, from the United States District Court for the Eastern District of North Carolina, Western Division.

#### CONCLUSION

WHEREFORE, The Petitioner hopes and prays that this Honorable Court will give the **Simmons, Supra**, opinion Equitable Tolling application to his case, and grant this Amended motion pursuant to Rule 15 of the Federal Rules of Civil Procedures.

Respectfully submitted

  
Maurice Pickens, Pro-se  
Reg. #11107-171  
F.M.C. Butner  
P.O. Box 1600  
Butner  
North Carolina 27509

**CERTIFICATE OF SERVICE**

I HEREBY, Certify that a correct and true copy of the foregoing was mailed to the United States Attorney's Office for the Eastern District of South Carolina , at P.O. Box 1567, Florence, South Carolina 29503, on this 22 day of MAY, in the year of 2012, by paid First Class United States Postage Stamp.

Respectfully submitted

  
Maurice Pickens, Pro-se